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ABSTRACT

This report on the Emergency School Aid Act (ESAA) identifies several problems concerning the act and its administration. It has been found that some program funds have been used for general educational rather than desegregation assistance because the administration allowed funding of school districts with planned desegregation efforts which were completed years ago. Funds have also gone to school districts that were not desegregating, and to schools which were not affected by the districts' desegregation plans. In addition, activities not directly related or necessary to implementing a desegregation plan have been supported. Further, regulations governing establishment or maintenance of integrated schools don't insure that such schools differ significantly from others within a district. Schools with the greatest need for desegregation assistance might not be awarded funds because: (1) state allotments required by the act can preclude funding of local educational agencies most in need of desegregation assistance nationwide, (2) the grant award criteria used may not adequately consider the criteria specified by the act, and (3) the Office of Education's grant award criteria have several problems which might preclude funds from going to the most needy schools and students. This report contains recommendations made to the Department of Health, Education and Welfare. In addition, it is recommended that Congress do the following: (1) clarify whether local educational agencies can be eligible for program funds if planned desegregation efforts were completed years ago, (2) clarify the act's definition of integrated schools if the criteria for determining the proportion of nonminority enrollment in integrated schools do not achieve the purpose of that provision of the act, and (3) modify the way in which funds are apportioned under the act so that local educational agencies most in need of desegregation assistance are funded. (Author/AM)

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ED150247

REPORT OF THE COMPTROLLER GENERAL OF THE UNITED STATES

Better Criteria Needed For Awarding Grants For School Desegregation

This report on the Emergency School Aid Act identifies several problems concerning the act and its administration. Some program funds have been used for general educational rather than desegregation assistance because the administration allowed funding of school districts with planned desegregation efforts which were completed years ago; schools not affected by desegregation plans; and activities not related directly to implementing a desegregation plan.

Further, regulations governing establishment or maintenance of integrated schools don't insure that such schools differ significantly from others within a district.

The State allotment formula and the Office of Education's grant award criteria may not effectively target funds to schools which have the greatest need for desegregation assistance.

U S DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

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HRD-78-36

JANUARY 20, 1978

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-164031(1)

The Honorable Carl D. Perkins
Chairman, Subcommittee on Elementary,
Secondary and Vocational Education,
Committee on Education and Labor
House of Representatives

Dear Mr. Chairman:

Your June 22, 1977, letter requested a report on the Emergency School Aid Act to be used by the subcommittee in considering reauthorization of the act. To meet this request we interviewed officials; reviewed policies, regulations, procedures and reports concerning administration of the act; and reviewed documentation concerning the award of selected grants. Most of this work was done at Department of Health, Education, and Welfare (HEW) headquarters and at four HEW regional offices.

As summarized below and discussed in more detail in appendix I, we identified several problems concerning the act and its administration.

Local educational agencies have been allowed to use program funds for general educational assistance rather than desegregation assistance because:

--The Office of Education's regulations allow funding of school districts with planned desegregation efforts which were completed years ago.

--Inadequate Office of Education criteria as to what constitutes an eligible desegregation plan permitted about $20 million in program funds to be awarded to school districts that were not desegregating.

--Funds have been provided to support activities in schools which were not affected by the districts' desegregation plans.

--Activities have been supported which were not directly related or necessary to implementing a desegregation plan.

Regulations governing the 1974 amendment to the act which permitted eligibility based on establishing or maintaining integrated schools do not insure that such schools

contain significantly different proportions of nonminority students and educationally advantaged students than other schools within the qualifying district.

Schools with the greatest need for desegregation assistance might not be awarded funds because:

--State allotments required by the act can preclude funding of local educational agencies most in need of desegregation assistance nationwide.

--The grant award criteria used by the Office of Education may not adequately consider the criteria specified in the act.

--The Office of Education's grant award criteria have several problems which might preclude funds from going to the most needy schools and students.

As recognized in your request, the reporting target date established did not permit comprehensive review of the program. Neither the regional offices visited nor the basic and pilot grants reviewed were statistically selected. However, because the problems noted were due mostly to the act itself or to inadequacies in Office of Education policy and guidelines, the problems discussed above may be widespread.

The report contains recommendations to the agency. In addition, we are asking the Congress to: (1) clarify whether local educational agencies can be eligible for program funds if planned desegregation efforts were completed years ago; (2) clarify the act's definition of integrated schools if the criteria for determining the proportion of nonminority enrollment in integrated schools do not achieve the purpose of that provision of the act; and (3) modify the way in which funds are apportioned under the act so that local educational agencies most in need of desegregation assistance nationwide are funded.

At your request, we did not take the additional time needed to obtain written comments from HEW. The contents of this report were discussed informally in a meeting with Office of Education officials on December 16, 1977. Their reactions have been considered in finalizing this report. They generally agreed with the recommendations and said that actions underway or contemplated would address some of the discussed problems.

B-164031(1)

As agreed with your office, copies of this report are being sent to the Secretary, Department of Health, Education, and Welfare; other congressional committees; Members of Congress; and other interested parties.

Sincerely yours,

Comptroller General
of the United States

APPENDIX I

APPENDIX I

BETTER CRITERIA NEEDED FOR AWARDING GRANTS FOR SCHOOL DESEGREGATION

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ABBREVIATIONS

ESAA	Emergency School Aid Act
HEW	Department of Health, Education, and Welfare
LEA	Local educational agency
OCR	Office for Civil Rights
OE	Office of Education

BETTER CRITERIA NEEDED FOR AWARDING GRANTS FOR SCHOOL DESEGREGATION

BACKGROUND

The Emergency School Aid Act (ESAA) was enacted on June 23, 1972 (Title VII of Public Law 92-318). It authorizes financial assistance to elementary and secondary school systems to:

--Meet the special needs incident to eliminating minority group segregation and discrimination.

--Encourage voluntary elimination, reduction, or prevention of minority group isolation.

--Help school children overcome the educational disadvantages of minority group isolation.

According to the act, minority group isolation exists when more than 50 percent of a school's enrollment is minority group children.

ESAA is administered by the Office of Education (OE), Department of Health, Education, and Welfare (HEW). Grants are awarded to local educational agencies (LEAs) and to public and private nonprofit organizations. The funds may be used for developing curriculum, community activities, magnet schools 1/, instructional services, human relations efforts, hiring and developing professional staff and other activities related to the act's purposes. The Congress has appropriated nearly $1.2 billion for ESAA for fiscal years 1973 through 1977. The fiscal year 1978 appropriation is estimated at $275.5 million.

ESAA is composed of seven subprograms--basic grants, pilot grants, grants to nonprofit organizations, bilingual/bicultural project grants, special projects grants, educational television project grants, and national evaluation project grants. Over 70 percent of ESAA funds have been

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1/Refers to a school that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

awarded for basic and pilot grants since the beginning of this program. This report focuses on those two subprograms.

Basic grant funds are available to LEAs in the 50 States and the District of Columbia to alleviate problems incident to desegregation. All activities approved for funding under basic grants must be necessary and directly related to implementing a desegregation plan or to establishing or maintaining an integrated school.

Pilot project funds are available to minority group isolated schools in districts with at least 15,000, or more than 50-percent minority enrollment, when minority isolation remains after the implementation of the desegregation plan. These funds are for unusually promising projects designed to overcome the adverse effects of isolation by raising the level of student achievement.

SCOPE OF REVIEW

Our review of ESAA focused on the question of whether program funds are directed to LEAs and schools with the greatest need for desegregation-related assistance. We reviewed the act and its legislative history. At OE headquarters in Washington, D.C., we reviewed policies, regulations, procedures, reports, and records concerning eligibility determinations and grant award criteria and procedures. We interviewed OE officials and officials in other organizations, such as HEW's Office for Civil Rights (OCR), HEW's Audit Agency, Department of Justice, National Education Association, and National Advisory Council on Equality of Educational Opportunity, to clarify questions relating to ESAA policies and procedures.

At four HEW regional offices--Atlanta, Georgia; Dallas, Texas; San Francisco, California; and Seattle, Washington --we interviewed officials in OE and OCR and reviewed documents concerning a few basic and pilot grants. These reviews were to see how OE was applying legislative and administrative criteria on eligibility and needs and to identify any basic problems with the criteria. The time frame for completing our work did not permit assessing the overall impact of the problems. Neither the regional offices visited nor the grants reviewed were statistically selected.

ADMINISTRATION OF ESAA LESSENS EMPHASIS ON DESEGREGATION-RELATED NEEDS

ESAA is a Federal desegregation assistance program. The eligibility requirements are key elements for insuring implementation of the purposes of the act. The act provides that an LEA is eligible if it is implementing or will implement, with assistance provided under the act, a desegregation plan. OE regulations, however, do not require that the plan reflect ongoing efforts to desegregate. Moreover, a wide range of activities can be accepted as desegregation plans.

OE regulations do require funding to be targeted to schools which are affected by the desegregation plan. Also they require linkage between the plan and activities funded. We found instances, however, of projects being funded in schools and/or of funds being used for activities which had a questionable relationship to the plan. OE provides general guidance for determining whether schools are affected by the plan or activities are related to the plan. Some regional officials told us that this guidance is insufficient for making such determinations. The difficulty in establishing linkage between a plan and a project is compounded in that school districts may have little or no current desegregation efforts. These conditions could allow ESAA funds to be used for general educational activities rather than desegregation-related activities.

Ongoing efforts to desegregate not required for eligibility

As noted in a 1971 House committee report 1/, the primary purpose of ESAA was to provide assistance for desegregation--not compensatory education. The act, therefore, requires that to be eligible for assistance, an LEA must either be implementing or agree to implement, if ESAA assistance is provided, a plan to eliminate, reduce, or prevent minority group isolation of students or faculty. The plan can result from (1) a court order; (2) an effort approved by the Secretary, HEW, to desegregate minority children or faculty; (3) a voluntary effort to eliminate, reduce, or prevent minority group isolation in all, some, or one of the schools of an LEA; (4) efforts to develop interdistrict transfer plans; or (5) efforts to maintain or establish one or more integrated schools.

1/H. Rep. No. 92-576, 15 (1971).

OE regulations (45 C.F.R. 185.11(c)(1)) provide that an LEA's eligibility

> "* * *shall not be affected by the date on which its plan was adopted, or ordered to be adopted, or by the fact that the steps to be taken under the plan have been completed."

Thus, under OE's regulations, an LEA is eligible for ESAA funds even if it has completed the steps specified in the desegregation plan. For instance, an LEA was declared eligible and was funded to provide remedial services and basic art instruction for some of its students, even though its desegregation plan is 29 years old.

An OE analysis showed that of the 467 recipients of basic grants in fiscal year 1976, 112 grantees qualified under plans dated 1965-1968 and 73 under plans dated before 1965. HEW regional officials told us that these districts were experiencing long-term effects of desegregation (for example, achievement disparities between minority and non-minority students).

Two reports on Federal desegregation assistance indicate a need for focusing such assistance on ongoing or more recent desegregation efforts. A 1972 OE-funded report evaluating the Emergency School Assistance Program (a Federal desegregation assistance program that preceded ESAA) stated that:

> "* * *Objectives and purposes which these Federal funds are attempting to achieve should be clearly stated* * *it is not reasonable to expect these funds to have a meaningful impact or to be used efficiently unless they are narrowly focused on short-range desegregation problems. Otherwise, they mainly serve the purpose of general aid to education."

The National Advisory Council on Equality of Educational Opportunity, created by ESAA to advise the Assistant Secretary for Education, HEW, and the Congress on the operations and effectiveness of the program, has expressed similar views. In a report dated March 31, 1977, the Council recommended that ESAA assistance be provided to LEAs for only a certain length of time. The Council stated that:

> "* * *If ESAA is not to be considered an entitlement program, local educational agencies (school districts) must finally accept the burden of the

> additional cost of programs that are needed and sought to overcome minority group isolation or the effects of past discrimination."

Variety of activities accepted as eligible plans

The Office for Civil Rights (OCR) has been given responsibility for determining what constitutes an eligible plan. The determination that an LEA has and is implementing an eligible plan under ESAA is called "threshold eligibility." Generally, OCR does not question the adequacy of a court ordered or voluntary plan and accepts a wide range of activities as eligible plans.

In one HEW region about $20 million in ESAA moneys for fiscal years 1973 through 1976 were provided to more than 40 LEAs even though these LEAs' plans did not involve desegregation. They had adopted and implemented comprehensive education plans intended to upgrade education. An HEW regional attorney promulgated a decision in 1973 that those plans in a predominantly minority LEA, would allow eligibility for ESAA funds. The attorney's reasoning was that students in minority group-isolated schools, in which student movement is not reasonably feasible, need assistance to overcome the adverse educational effects of minority group isolation.

An OE headquarters official told us that in 1976 he questioned the regional attorney's decision on eligibility and discussed the situation with HEW's General Counsel. A decision was made to publish a definition of a desegregation plan in the Federal Register to bring uniformity in interpretation throughout the regional offices. The definition, which was published in the January 21, 1977, Federal Register (Vol. 42, No. 14, p. 3,900), defined desegregation plans as

> "* * *only those plans* * *which provide for the reassignment of illegally separated children or faculty to or within the schools of a local educational agency."

Also, because of the above described situation, in fiscal year 1977 all HEW regional attorneys' policy decisions on ESAA eligibility were to be approved by HEW's General Counsel.

The January 1977 definition of a desegregation plan mentioned above provides some guidance on desegregation plans. This definition, however, applies only to plans resulting from a Federal or State court order, or satisfaction

of the requirements of title VI of the Civil Rights Act of 1964. It does not provide guidance on what constitutes an eligible plan when an LEA is undertaking a voluntary effort to eliminate, reduce, or prevent minority isolation. In addition, other questions remain as to what constitutes an eligible plan. For example, a letter signed by a school superintendent stating that noncompliance with title VI in one of its schools would be corrected was accepted as an eligible desegregation plan. This noncompliance involved having too many minority students in lower achievement groups. HEW officials expressed differing opinions as to whether correcting such a violation would constitute an eligible desegregation plan.

Eligibility can also be based on voluntary plans which consist chiefly of encouraging students to attend other schools if such transfer will improve minority to non-minority ratios. Although the act specifies general categories of plans, regional officials said that no standards exist for determining what constitutes an eligible voluntary plan. For instance, an OCR official in one region said that implementing a desegregation plan by moving one student would qualify a district for threshold eligibility. An official in another region said that implementing a nonrequired desegregation plan would have to involve, in most cases, moving at least 25 students before a district would be considered eligible for ESAA funds.

Schools funded that are not affected by the plan

After an LEA is declared eligible for ESAA funds, OE is to determine which of the LEA's schools are eligible for funding. OE policy states that only those schools affected by a desegregation plan are eligible for ESAA basic grant funds.

An OE official explained that there must be a cause/effect relationship between the desegregation plan, the needs identified by the LEA, and the services to be provided to the schools by the ESAA project. The ESAA application form provides that:

> "A school is considered to be 'affected by the plan' if such school is included in the plan by name or reference to its attendance zone, if its geographical attendance zone has been altered by the plan, if such plan has required or will require the transfer of students and/or faculty to or from the school or has required

> or will require changes in the curriculum or educational services offered by the school, or if the plan has resulted in other significant changes in the racial or ethnic composition of the student enrollment of the school."

This definition is so broad that it could be interpreted to include all schools of an LEA which at one time undertook some desegregation activity. It does not provide guidance on how direct the linkage of schools to the plan must be.

For two ESAA grants we reviewed, OE and OCR officials were not able to identify the schools which were affected by the applicants' desegregation plans. One basic grant for which OCR certified plan eligibility involved a voluntary plan to reduce the extent of racial isolation in some or all of the LEA's schools. The LEA claimed that all of its schools were affected by the plan because a voluntary attendance plan allowed students to attend schools of their own choosing. However, an analysis of the schools that participated in the ESAA basic grant project showed that the extent of minority group isolation in many schools had increased significantly between the year preceding implementation of the plan and the project year for which funds were requested. The minority enrollment for one of the schools participating in the project had increased from about 46 to 67 percent.

An OE regional official told us that he did not know which schools were affected by the LEA's desegregation plan. He added that in March 1977 the region had requested OE headquarters to clarify how to determine which schools were affected by the plan. Clarification had not been received as of September 1977. An OCR regional official stated the opinion that many schools which had received ESAA basic grant funds were not affected by the plan.

In another case, a basic grant for about $158,000 was approved for ESAA funding because the LEA had adopted a plan to correct a title VI compliance problem which was discovered by OCR. This involved discrimination in ability grouping affecting two schools. The LEA agreed to correct this problem, and based on this agreement, OCR certified that a desegregation plan was being implemented. However, the basic grant proposal for that year was funded to provide remedial instructional services in all seven of its schools. OE officials acknowledged that five of the schools were not affected by the plan and should not have received funding.

OE officials found that other LEAs had used ESAA basic grant funds to provide services to schools not affected by desegregation plans. In February 1977, OE headquarters officials reviewed contracts and awards made by HEW regional offices. According to a memorandum prepared by one official, LEAs in one State were using limited voluntary desegregation plans to obtain ESAA funds and then were using the funds for programs and activities in schools not affected by the plans.

Funds awarded for project activities with a questionable link to the desegregation plan

Some remedial education programs which have been funded do not appear to meet the OE regulations that they be directly related and necessary to implementing a plan. This results from an early program emphasis on remedial services and an acceptance, in some cases, of discrepancies in educational achievement between minority and nonminority students as sufficient justification regardless of the relation to the desegregation plan.

Section 707 of the act authorizes ESAA funds to be used for 15 activities which allow an LEA much flexibility. OE headquarters does not have data to readily determine the percentage of ESAA funds expended for various activities. According to congressional testimony by OE officials in 1977, about two-thirds of the ESAA funds have been spent on remedial instructional services--one of the authorized activities--with the majority being targeted for reading instruction. Remedial services are designed to raise the achievement level of students who are not performing at their expected levels in such areas as reading and mathematics.

When the ESAA program began, the Secretary, HEW, made a policy decision that most funds should be targeted to remedial reading and mathematics instruction. ESAA applicants were encouraged during technical assistance meetings with OE officials to emphasize remedial services in their proposals. In addition, remedial services were strongly emphasized as an authorized activity in the ESAA manual given to all applicants at the beginning of the program.

Both the House and Senate Reports on the Education Amendments of 1974 criticized OE for emphasizing remedial services. The House Report, dated February 21, 1974, 1/ states that:

1/H. Rep. No. 93-805, 76 (1974).

> "Nowhere in the Emergency School Aid Act is there a requirement or intention that these funds are to be so sharply focused * * * Even the Department's own evaluation report on the Emergency School Aid Program (a predecessor to ESAA) found that the best use of the funds was not for basic instructional programs, but for pupil-to-pupil programs and for other student personnel programs, such as guidance and counseling * * * The Committee is greatly concerned that the Department, solely on its own initiative, is making the Emergency School Aid Act into simply another compensatory education program."

The Senate Report, dated March 29, 1974, 1/ also voiced objections to emphasizing remedial services, noting that human relations programs are more effective when dealing with desegregation or reduction of racial isolation.

Although OE regional officials stated that remedial services activities are not currently being emphasized, OE has not issued any directives to discourage continued emphasis on remedial services.

We reviewed several grants involving remedial services for which the linkage between the desegregation plan and the activities funded was questionable. For example, one basic grant was awarded in 1976 for $200,000 to provide remedial services primarily to students in the first through fifth grades. This LEA qualified for assistance because in 1969 it adopted a plan to eliminate minority group isolation, the final phase of which was completed in 1971. One panel member who reviewed this proposal commented that the project did not differ greatly from a general educational program. A regional official told us that the linkage between the 1969 plan and the remedial services was questionable.

Regional officials said that a number of such cases probably existed. One official said that the first step in reviewing applications is to determine the linkage of the proposed activities to the desegregation plan. During this review, panel members often accepted disparities in achievement scores between minority and nonminority students as sufficient justification for assistance. Regional officials stated that starting with fiscal year 1977 funding, OE headquarters began to emphasize the need for LEAs to address the

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1/S Rep. No. 93-763, 102 (1974).

linkage between the activities to be funded and the desegregation plan. However, our review of the fiscal year 1977 basic grant application of the LEA previously discussed showed that not only was the linkage between the plan and the project not addressed, but the needs assessments for fiscal years 1976 and 1977 were virtually identical.

Conclusions

ESAA is intended to provide desegregation-related assistance. However, the funds have a tendency to become general aid to education rather than desegregation assistance if, as we found:

--An LEA continues to receive ESAA funds for planned desegregation efforts which were completed years ago.

--Plans which provide a basis for eligibility involve little or no desegregation.

--Basic grant funds are provided to schools not affected by the plan.

--Activities are supported which are not directly related or necessary to implementing a desegregation plan.

Recommendation to the Congress

The Congress should clarify whether LEAs can be eligible for ESAA if planned desegregation efforts were completed years ago. If the act is to be focused on desegregation aid rather than general aid to education, the availability of ESAA funds should be limited to desegregation efforts which are ongoing, or to resolving those problems directly incident to the desegregation effort.

Recommendations to the Secretary of HEW

We recommend that

--more specific instructions, within the limitations of the act, be provided as to what constitutes an eligible desegregation plan, including such aspects as requirements for comprehensiveness, extent of movement of students and/or faculty, and correction of title VI compliance problems;

--better guidance as to which schools are affected by a desegregation plan and about the linkage of ESAA activities to the desegregation plan be provided so that program officers can determine which schools and activities are eligible for funding; and

--applicants be encouraged to focus ESAA funds on services other than or in addition to remedial instruction by issuing guidance which emphasizes the value and importance of other services in addressing the special needs incident to desegregation.

INTEGRATED SCHOOLS PROVISION OF THE ACT DOES NOT INSURE BETTER EDUCATIONAL OPPORTUNITIES

In 1974, ESAA was amended to allow an LEA with a minority student enrollment of more than 50 percent to be eligible by establishing or maintaining one or more integrated schools in which a substantial portion of the children are from an educationally advantaged background. Prior to this amendment, minority-isolated LEAs had to compete for basic grants with plans to eliminate, reduce, or prevent minority group isolation.

Section 720(7) of the act defines an integrated school as one in which a substantial portion of the children are from an educationally advantaged background and in which nonminority students constitute that proportion of the enrollment which will achieve stability, as determined by the Assistant Secretary for Education, HEW. The nonminority enrollment cannot be more than 65 percent of the school enrollment. OE regulations add that the percent of nonminority enrollment in integrated schools be no less than the districtwide percentage.

Under these provisions, a school could be considered integrated if it has a minority student enrollment between 100 and 35 percent. There is no requirement that the school have a different ratio of minority to nonminority students than the district ratio. We reviewed data for one LEA which was awarded a basic grant under the integrated schools provision. This district had a 99.45 percent minority student enrollment, with only 172 nonminority students out of a total enrollment of 31,241. A school of this LEA would only have to have a .55 percent nonminority enrollment to meet the OE criterion.

OCR certified that 11 of the LEA's 36 schools met all criteria for integrated schools. As shown below, school No. 9, with only 6 nonminority students of a total enrollment of 1,072, met the enrollment criterion specified in OE regulations, because the 6 nonminority students constitute .56 percent of the school's enrollment. We question, however, whether a school with 6 nonminority students and 1,066 minority students is realistically integrated.

School	Total enrollment	Nonminority enrollment	
		Number	Percent
No. 1	736	11	1.49
2	746	7	.94
3	724	5	.69
4	670	6	.90
5	828	11	1.33
6	716	9	1.25
7	583	11	1.89
8	743	9	1.21
9	1,072	6	.56
10	1,052	7	.67
11	1,657	12	.72

ESAA requires that a substantial number of students in the integrated school have an educationally advantaged background. OE regulations (45 C.F.R. 185.11(d)(2)) provide that a school meets this requirement if at least 40 percent of the children are from families with incomes higher than the school district median or at least 50 percent of its children score at or above the 60th percentile on a recognized standard reading achievement test when compared with children of comparable age or grade level in all schools within the district.

Both of these measures are based on within district comparisons. Students who are considered educationally advantaged in the school district could be educationally disadvantaged by State and/or national norms. Thus, if a school district is predominantly poor and/or its students have a low reading achievement level, the criteria established by OE will not assure that the qualifying school has a substantial proportion of educationally advantaged students by national or State standards.

In the school district previously discussed, 30 of 36 schools met OE's criteria of having a substantial proportion of their students from an educationally advantaged background. Thus, OE's criteria seem lenient since most schools

within this district could meet the criteria. An OE official told us that he could see no educational distinction among the schools within the district. Statewide academic achievement tests administered to selected grades during the 1975-76 school year showed that the district mean achievement scores in reading, writing, and mathematics ranked in the lowest four percentiles compared with other districts in the State. In addition, 46 percent of the district's population receive some form of public assistance.

Conclusions

The 1974 amendment was based on the premise that establishing integrated schools within minority-isolated LEAs could provide improved educational opportunities by having a substantial number of educationally advantaged students and enough nonminority students to achieve stability. However, OE's regulations do not insure that integrated schools have a substantial number of educationally advantaged students. In addition, the proportion of nonminority students in such schools does not have to exceed the districtwide average. Eligibility as an integrated school can therefore be obtained with only a few nonminority students.

Recommendation to the Secretary of HEW

We recommend that the definition of educationally advantaged used for integrated schools be revised, specifically considering the appropriateness of, and alternatives to: the levels of income and achievement used to qualify a school, and the use of the school district as the basis for comparing income and achievement.

Recommendation to the Congress

If the Congress believes that the criteria for determining the proportion of nonminority enrollment necessary to achieve stability in integrated schools is not appropriate, we recommend that the act's definition of integrated schools be clarified.

APPORTIONMENT BASED ON NUMBER OF MINORITY STUDENTS MAY NOT REFLECT NEED FOR ESAA FUNDS

Sections 705(a) and (b) of the act require that ESAA basic, pilot, and nonprofit organization grant funds--which account for about 87 percent of ESAA appropriations--be apportioned to States based on a ratio of their minority student populations to the Nation's minority student population.

OE then reviews each application in each State and bases awards on statewide competition.

A basic problem with the act's State apportionment formula is that it does not necessarily distribute the funds based on actual need for assistance. A State's minority student population may have little or no relationship to that State's need for assistance in reducing minority group isolation or overcoming the adverse effects of minority group isolation. This is because varying proportions of the minority student population may not be or may never have been in a minority-isolated situation.

Another problem with apportioning funds on this basis is that many of the State's minority students can be enrolled in LEAs that are ineligible to receive ESAA funds. Such ineligibility can result from lack of a desegregation plan or noncompliance with title VI of the Civil Rights Act. Other LEAs within the State, therefore, would have the advantage of competing for funds generated by the minority student population in the ineligible LEAs. For example, several metropolitan LEAs have been ineligible to receive ESAA basic or pilot grant funds. One of these LEAs had 74 percent of the State's total minority student population.

Within such States more ESAA funds are available for fewer eligible minority students than other States with a similar minority student population and in which all of its LEAs are eligible to compete for funds.

State apportionment of funds results in funding some LEAs which have less need for assistance than others. For example, in fiscal year 1976, all basic grant applications from LEAs in one State were funded although those applicants received fewer points than eight applications which were qualified from another State and which were not funded. This situation occurred because competition for funds in the first State was so low that all eligible applicants were funded, while in the other State many more eligible LEAs competed for limited funds.

OE has noted that another problem with apportioning and awarding funds based on statewide competition is that some States have one or two large cities that can use the entire State apportionment. Since no ceiling (other than the State apportionment) is placed on the amount of funds each applicant can request, smaller LEAs in such States cannot effectively compete for funds. In legislative proposals for fiscal year 1975, OE recommended national competition for ESAA grants.

Conclusions

The act's method of apportioning and awarding funds can preclude funds from going to LEAs most in need of desegregation assistance. Although various approaches could exist for alleviating these problems, one alternative might be to award funds based on national competition rather than apportioning funds to States and awarding funds based on statewide competition.

Recommendation to the Congress

We recommend that the Congress modify the way in which funds are apportioned under the act so that LEAs most in need of desegregation assistance nationwide are funded. We suggest that the Congress consider nationwide rather than statewide competition for funds. Nationwide competition would eliminate the possibility that lower scoring applicants in one State would be funded while higher scoring applicants in others are not.

GRANT AWARD CRITERIA DIFFER FROM LEGISLATIVE REQUIREMENTS AND MAY NOT TARGET FUNDS TO MOST NEEDY SCHOOL DISTRICTS

ESAA provides six criteria that the Assistant Secretary for Education, HEW, should apply in approving grants for basic, pilot, and certain special projects.

OE's criteria for rating and ranking applicants for ESAA funds do not directly address some of the legislative requirements and do not adequately deal with others.

These and several other problems with OE's grant award criteria may preclude ESAA funds from going to the most needy school districts.

Criteria specified in the act

Section 710(c) of the act provides that only the following criteria shall apply in approving applications for basic, pilot, and certain special projects grants:

1. the need for assistance, taking into account such factors as:

   (A) the extent of minority group isolation (including the number of minority group-isolated children and the relative concentration of such children) in

the school district to be served as compared to other school districts in the State,

(B) the financial need of such school district as compared to other school districts in the State,

(C) the expense and difficulty of effectively carrying out the desegregation plan or activity or the program to be assisted in such school district as compared to other school districts in the State, and

(D) the degree to which measurable deficiencies in the quality of public education afforded in such school district exceeded those of other school districts within the State;

2. the degree to which the desegregation plan or activity, and the program or project to be assisted, are likely to produce a decrease in minority group isolation in minority group-isolated schools, or prevent minority group isolation from occurring or increasing (in the absence of assistance under the act);

3. the extent to which the desegregation plan or activity constitutes a comprehensive districtwide approach to eliminating minority group isolation, to the maximum extent practicable, in the schools of such school district;

4. the degree to which the program, project, or activity to be assisted affords promise of achieving the purpose of the act;

5. that, for State-apportioned funds, the amount necessary to carry out effectively the project or activity does not exceed the amount available for assistance in the State in relation to the other applications from the State; and

6. the degree to which the desegregation plan or activity involves, to the fullest extent practicable, the total educational resources, both public and private, of the community to be served.

Criteria applied by OE

An HEW task force developed the grant award criteria for the various programs authorized by the act. The criteria for comparing applications for basic and pilot grants provide

for two separate categories of scores--a statistical score and a quality score. The statistical score is based on the number and percentage of minority students enrolled in the LEA's schools and the amount of desegregation accomplished or to be accomplished. The quality score is based on educational and programmatic quality of the activities for which program funds are being requested. This score is determined by a non-Federal review panel, consisting primarily of professional educators.

The following table summarizes the maximum number of points to be assigned to basic and pilot grant applications.

Category	Maximum points Basic grant	Maximum points Pilot grant
Number of minority students in the school district	15	15
Percentage of minority students in the school district	15	15
	30	30
Effective net reduction or prevention of minority group isolation (note a)		
--Number of minority students	30	15
--Percentage of minority students	20	10
	80	55
Quality of the activities to be funded as judged by a non-Federal rating panel	45	53
Total	125	108

a/Effective net reduction or prevention of minority group isolation is a measure of the difference in minority group isolation in schools affected by the LEA's desegregation plan between two points in time--a base year (the year preceding implementation of the current desegregation plan) and the project year (year for which funds are requested or the most recent year for which data is available).

A minimum score of 40 points for basic projects (including at least 28 quality points) and 45 points for pilot projects (including at least 33 quality points) is required. Any applicant not meeting the minimum number of points may modify and resubmit its proposal for a second awards cycle. For each grant category within each State, all eligible LEAs receiving the minimum required points are funded in rank order according to their composite scores until available funds for that category and State are awarded.

Differences between the act and OE criteria

Although OE's grant award criteria include factors to evaluate an applicant's need for assistance--the first criterion specified in the act--they do not consider all factors cited in the act for assessing such need. HEW officials said that since the act specified "* * * factors such as * * *," all of these factors did not have to be used. Because these factors are specifically cited in the act we believe they should be applied if possible.

Of the four factors specified under need for assistance, OE's criteria do not directly address three--financial need, deficiencies in the quality of education, and expense and difficulty of carrying out a plan. OE said that various methods of assessing school districts' financial needs were studied but, in view of varying local financial situations, none was suitable for comparing financial needs among districts.

However, according to an OE official who deals with State school finance programs, almost all States have some means of ranking school districts based on wealth. The few States that do not have such a means are in the process of developing, with Federal assistance, a formula for the distribution of some State aid inversely to school district wealth. The official asserted that every State can identify school districts with the greatest financial need.

With regard to deficiencies in the quality of education, applications submitted to OE may identify disparities in achievement levels between minority and nonminority students. An Office of Education official stated this factor is not measured because no adequate method exists to compare deficiencies in quality of education between school districts. Moreover, some studies have shown that socioeconomic characteristics of students account for more of the variance in achievement levels than the quality of education afforded. Accordingly, achievement levels may not be adequate indicators of the quality of education. The inclusion in applications of information on factors which school administrators can control and that influence the achievement levels of students--such as teacher experience and degree level and use of other types of professional staff including guidance counselors--could give panelists some means of assessing possible deficiencies in the quality of education within the district.

An OE official also said that OE does not have an adequate measure of the expense and difficulty of carrying out

a desegregation plan. Among competing LEAs, differences in extent of reduction in minority isolation could occasionally measure differences in expense and difficulty, but, in most cases it does not account for varying complexities of the effort. Also, the net reduction factor often measures past desegregation rather than expense and difficulty of current or future reductions.

OE officials say that only one factor under need for assistance--extent of minority group isolation--is addressed by their statistical formula. Although OE's formula includes the number and percent of minority group enrollment in the district and the number and percent of reduction in minority group isolation, it does not directly award points for minority group isolated students. The act implies that minority group isolation is a condition of need, but OE's formula does not award points for the existence of this condition, unless the condition itself has been improved. Thus, those districts in which the need to reduce minority group isolation still exists, receive no points based on this need.

In addition to need for assistance, OE criteria do not adequately address one other legislative criterion--the extent to which the plan or activity constitutes a comprehensive districtwide approach to eliminating minority group isolation to the maximum extent practicable. Net reduction in minority group isolation measures the extent of reduction in schools affected by the plan. It does not measure the extent of that effort relative to the district as a whole, unless all the schools in the district are affected by the plan. Also, it only measures what is planned or has been accomplished rather than what might be feasible. Accordingly, net reduction does not necessarily address the extent to which the plan or activity constitutes a districtwide approach.

Other criteria problems

As discussed above, OE's criteria may not adequately address the factors which the Congress specified to be used in determining whether assistance is to be provided. We also identified several other problems with the criteria which may preclude funds from going to the most needy districts.

Number and percentage of minority students

As shown in the chart on page 17, a basic or pilot grant application can receive up to 30 points based on the number and percentage of minority students in the school

district. This is a large portion of the total points available. The use of this factor as a major indicator of need is questionable. A school district's number and/or percentage of minority students may have no relationship to its need for desegregation assistance because the minority students may not be or may have never been in a minority-isolated situation.

The National Advisory Council on Equality of Educational Opportunity, which was established to advise HEW and the Congress on ESAA, has also questioned the use of number of minority students as an indication of need. In its report dated March 31, 1977, the Council noted that large urban districts with fairly high percentages or numbers of minority students have a decided advantage over smaller school districts. The report added that a larger district's proposal might stand a better chance of being funded than a smaller district's proposal even if the latter was rated much higher on educational quality.

We reviewed fiscal year 1976 basic grant application documents for five States that had unfunded eligible basic grant applications. Within four of these States instances were found where unfunded eligible projects: were to serve a larger number and/or percentage of minority students than some funded projects; were rated comparable or superior in educational quality to some funded projects; and showed greater net reduction of minority isolation than some funded school districts. The funded projects received more points for the number and/or percentage of minority students in the school district; therefore, they achieved a higher total score than the unfunded projects.

If the number and/or percentage of minority students are to be major factors in grant awards, such factors should relate more closely to the desegregation effort than does the total minority student population. Such factors as the number and percent of minority-isolated students affected by the desegregation plan, or the number of students to be served by the project would be better indicators of need for assistance since these factors are directly related to LEAs' desegregation efforts.

Improper base year can distort net reduction scores

OE measures the extent of an LEA's desegregation by comparing the number and percentage of minority-isolated students in schools affected by the desegregation plan for the

year prior to implementation of its current desegregation plan (base year) to such students for the project year. This enrollment data is submitted by the applicant. The measure of an LEA's desegregation, which is used to establish an applicant's score, can change depending on the base year used. OE has not clearly defined how to determine the base year.

The definition of base year has been accorded a number of different interpretations by HEW regional and headquarters program officials, such as: the year prior to the greatest amount of student movement; the year prior to the oldest approved desegregation plan unless that has been overturned by a new court order or plan; the year prior to the most recent desegregation plan; and the year prior to the OCR-approved plan submitted with the application. Officials in one regional office sent a letter dated September 17, 1976, to Office of Education headquarters, asking for clarification of the base year definition. OE referred the requester to the regulations, but this did not provide clarification. OE officials indicated this would be clarified when the regulations are revised.

In another regional office, the officials acknowledged that they accept without question the base year which an LEA specifies in its grant application. For example, one LEA specified a base year of 1954 because that year preceded its establishment of a freedom-of-choice plan to desegregate its schools. However, the desegregation plan verified by OCR, on which the LEA's eligibility for ESAA assistance was based, was dated 1969. The base year that should have been used in accordance with that plan, as regional officials acknowledged, was 1968. In this case, the base year error did not affect the applicant's score because the applicant showed no reduction in minority group isolation. However, the choice of base year for LEAs which have reduced minority group isolation is critical in determining net reduction scores.

Continued funding of old desegregation efforts could preclude funding of recent efforts

As shown in the table on page 17, basic and pilot grant applications can receive a maximum of 50 and 25 points, respectively, based on reduction in the extent of minority isolation. These criteria do not, however, take into acount when the reduction occurred. An LEA that desegregated a slightly larger number and/or percentage of minority students 20 years ago would be given more consideration for funding than a newly desegregating LEA moving a smaller number and/or

percentage of students. Furthermore, the LEAs which achieved these reductions years ago will continue to receive the same consideration for funding in future years based on the same reduction.

On pages 3 to 5 we discussed the fact that LEAs continue to be eligible for ESAA funds even though their planned desegregation efforts have been completed. Such districts receive the same funding consideration by OE as districts currently desegregating. In addition, in those districts which are in the process of desegregating, the most recent movement, such as project year movement, is given no more weight than movement that occurred in prior years.

At the beginning of the ESAA program, HEW considered giving more credit to those LEAs recently having undergone or currently undergoing desegregation than to LEAs that completed a substantial portion of their desegregation efforts years ago. Several alternatives were considered, which ranged from proportionately weighting LEAs according to the age of their desegregation efforts, to giving equal weight to all desegregation efforts no matter when they took place. The Secretary, HEW, established a policy of equal weight.

ESAA legislation, proposed in 1975 by OE, recommended, among other things, that the act provide funding priority for recent desegregation efforts. However, this proposed legislation was not introduced, and OE has not changed its grant award criteria to incorporate its stated concern that priority be given to recent desegregation efforts. Recency of the desegregation effort could be considered as a factor in determining need for assistance under section 710(c)(1) of the act. Accordingly, OE could give additional priority to more recent plans without legislative revisions.

Conclusions

OE's criteria for determining need for desegregation assistance should more closely address the criteria specified in the act. ESAA stipulates factors such as financial need, measurable deficiencies in the quality of education afforded, expense and difficulty of carrying out the plan, extent of minority group isolation, and comprehensiveness of the plan as conditions indicating need for ESAA assistance. These factors, however, are not directly measured by OE's criteria for rating and ranking applicants.

There are other problems with OE's criteria which may preclude the targeting of funds to the most needy school

districts. First, the number and percent of minority students in the district may have little relation to the extent of minority group isolation or the extent of students (to be) affected by the desegregation plan. There are other factors which more closely relate to desegregation. Second, net reduction may be an ineffective measure of desegregation effort due to the lack of clarity concerning determination of the base year and lack of preference given to recent reduction in minority group isolation. Without a standard determination of base year, some LEAs could suffer a competitive disadvantage. Furthermore, without weighting for recency of desegregation efforts, funds may not be targeted to school districts with more immediate or emergency needs.

Recommendations to the Secretary of HEW

We recommend that the ESAA grant award criteria be reviewed to determine if they carry out the intent of the Congress to target funds to the school districts most in need of desegregation-related assistance. Specifically, the following points should be considered during such a review:

--Whether such factors as the extent of minority group isolation and the number and percent of students affected by the desegregation plan might be more appropriate reflections of need than the total number and percent of minority students in the school district.

--Whether data on financial need and quality of education afforded in school districts are available at the State level and, if so, whether such data would prove useful in evaluating school districts' relative needs for assistance.

--Whether the net reduction in minority group isolation criteria is an effective measure of expense and difficulty of implementing a desegregation plan and/or comprehensiveness of the plan. If a decision is made to retain the net reduction criteria, two improvements should be made: (1) the policies on establishment of base year should be clarified so that a consistent definition is applied; and (2) greater weight should be given to the more recent reductions in minority group isolation.

OTHER MANAGEMENT MATTERS REQUIRING OE ATTENTION

OE has funded pilot projects in school districts which did not meet basic eligibility requirements. Also, some panel members rating proposals have submitted written recommendations which contradicted the scores they awarded LEAs. OE did not question any of these inconsistencies.

Awards to ineligible LEAs

During our review we found that nearly $1.5 million in pilot project grants were awarded to four ineligible LEAs during fiscal years 1973 through 1976. Section 706(b) of the act requires that to be eligible for a pilot project grant a school district's minority student enrollment in the year preceding the year for which funds are requested must be at least 15,000, or more than 50 percent. The four LEAs referred to above met neither of these requirements. Three of the grant applications contained information which showed that the LEAs did not meet eligibility criteria, but the grants were still funded. For the fourth grant the application contained enrollment statistics which were later found to be erroneous. If enrollment statistics had been verified as required by OE administrative procedures, OE could have discovered the LEA's ineligibility prior to grant award. Regional officials acknowledged that they should not have awarded these grants.

We did not make a detailed review of eligibility for pilot project grants. We discovered the problems with the first three grants during a cursory review of summary data at OE headquarters for all pilot project grants. An OE regional official informed us of problems with the fourth grant which contained erroneous statistics.

An OE headquarters official told us that OE discovered the error on two of the pilot grants but has not attempted to recover funds. OE headquarters was not aware of the other errors, however, until we advised them of these cases. OE officials stated that they will recommend recovery of the funds.

We informed an HEW Audit Agency official about these pilot project grants. He stated that his agency is looking into the matter and would consider the possibility of recovering the funds.

Contradictions between recommendations and scores by review panelists not questioned

As noted previously, OE uses panels of non-Federal personnel, consisting primarily of professional educators, to evaluate the educational quality of ESAA grant applications. The panelists are to assess whether the ESAA applicants have desegregation needs which are supported by evidence contained in the application and whether the proposed project will adequately address those needs. The panelists independently rate the applications using numerical scores as well as written comments to indicate their quality. An ESAA application must receive a minimum quality score to be eligible for funding. All applications not meeting the minimum scores are returned to the applicants for possible revision.

In three of the four regional offices we visited, some review panelists' comments were inconsistent with the scores they gave to applications. For example, one basic grant was rated by four panelists, two of whom recommended no Federal support and one of whom recommended funding only if the project proposal was revised. In addition, three of the four panelists commented that the needs stated in the proposal were not clearly related to desegregation or reduction of minority group isolation. Yet all four of the panelists gave the proposal quality scores above the minimum score required. A basic grant for about $1.2 million was awarded to the LEA.

In these three regional offices OE program managers told us they did not question these inconsistencies between panel comments and scores. The officials stated that if an application is declared eligible by OCR and scores above the minimum required points, program managers are very reluctant to question whether the application should be funded unless it contains illegal or unauthorized costs. OE officials explained that program managers have discretion in recommending grant awards. They are often reluctant to exercise this discretion because of a lack of specific authority, procedures, or policies.

OE program managers are responsible for training the non-Federal panel members. As noted in the ESAA Program Management Procedures Manual, one of the objectives of this training is to emphasize that the panel comments must bear a direct relationship to the score assigned.

Conclusions

The award of pilot project grants to LEAs that are ineligible, and failure to question inconsistencies in panel comments and numerical scores are indicators of weaknesses in administrative control over awarding ESAA funds. These indicators alone might be insufficient to warrant overall concern about program management. However, these indicators, along with other matters previously discussed, such as lack of linkage between schools funded, activities supported and the desegregation plan (see pp. 6 to 10) and lack of specificity as to how to determine the proper base year (see pp. 20 and 21) are sufficient to raise serious questions about the adequacy of program management.

Recommendation to the Secretary of HEW

We recommend that guidelines be established which will provide program officers with sufficient and specific authority and responsibility for insuring adequate evaluation of applications.

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